IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7476 OF 2006

Rani Laxmibai Mahila Prabodhan Prathishthan & Anr.....
Petitioners
V/s
Shri Pathan Harun Ajij & Others. .....
Respondents.

Office Notes, Office Memoranda of Coram, appearances Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

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Mr.R.S.Datar, Adv. for the petitioners.

Mr.Shrishail Sakhare & Mrs.M.S.Sakhare, Adv. for respondent No.3.

CORAM: A.P. DESHPANDE, J.

22.2.2007

PC:

Rule.

Rule made returnable forthwith.

Taken up for final hearing by consent of the parties.

Petitioner No.1-Society administers petitioner No.2-School for handicap students. Earlier the same school was run by one Sahara Technical Institute under the name

and style of Sahara Training Center for disabled. Sahara Technical Institute could not run the said school as per the provisions of Persons with Disabilities (Equal opportunities, Protection of Right and Full Participation) Act, 1995 (the “Act”) on account of which the school was closed down. The employees working in the school, which was earlier administered by Sahara Technical Institute, formed a Society known as Brilliant Technical Institute and applied to the Government to transfer the two schools run by Sahara Technical Institute in their favour. Though the Government had permitted the Brilliant Technical Institute to run one of the schools earlier administered by Sahara Technical Institute by name Sahara Training Center to be run by the employees-Society, it granted the school in question to petitioner No.1. Aggrieved by decision of the State Government in allotting the petitioner No.2-school by name Ramabai Apang Training Centre, Solapur to the petitioner No.1 the Brilliant Technical Institute viz. the institute formed by the employees working in the school filed writ petition in this Court. That petition came to be dismissed, is an

admitted position on account of which the petitioner No.2-school continues to be managed by petitioner No.1. In this factual situation it is the case of the petitioner-society that though letters were addressed to the employees of said Sahara Technical Institute working in Sahara Training Centre calling upon them to join duties with the petitioners only three employees responded to the said letters and joined the duties whereas the present respondent No.1 and one more employee did not join the service of petitioners. In this factual position respondent No.1 preferred an appeal before the School Tribunal terming discontinuation from service as otherwise amounting to termination effected by the petitioners and the School Tribunal has allowed the appeal by its judgment and order dated 19.9.2006. Allowing the appeal the School Tribunal has set aside the order of termination and granted reinstatement with 50% back wages. Aggrieved by the said judgment and order passed by the Tribunal the present petition has been filed. Two fold objections are raised to the judgment and order passed by the Tribunal; firstly that the Tribunal has no jurisdiction to entertain the appeal

filed by the employees working in school for disabled. It is further submitted that such a school for handicap is regulated by the provisions of Persons with Disabilities (Equal opportunities, Protection of Right and Full Participation) Act, 1995 and service conditions of employees working in such schools are governed and regulated by Special Code for handicaps. Secondly it is submitted by the learned counsel for the petitioner that the judgment and order has been passed by the Tribunal without affording any opportunity to the petitioners of being heard in the matter and the judgment is rendered without serving notice on the petitioners. After hearing the parties for sometime it is transpired that a school for disabled/handicaps is not covered by definition of Private School and the school does not have any recognition from the Director, Education Board or the State Board. The learned counsel for the respondent No.1/employee fairly concedes that the School Tribunal has no jurisdiction to entertain the appeal filed by the employee working in school for disabled and the service conditions are regulated by the Special

Code for handicaps. Said Special Code also provides a Forum in the form of an Appeal to redress grievance of the employees relating to their termination of service. In these circumstances the learned for respondent No.1 submits that judgment and order passed by the Tribunal be quashed and set aside and liberty be granted to file an appeal before Appropriate Appellate Authority under the Special Code for handicaps. In this view of the matter writ petition deserves to be allowed and I proceed to allow the same. The impugned judgment and order passed by the School Tribunal is quashed and set aside. The respondent No.1 shall be at liberty to approach appropriate Appellate Authority under the Special Code for disabled/handicaps. Respondent No.1 shall file such an appeal within a period of one month from today and if such appeal is filed within one month the Appellate Authority shall proceed to consider the same on merits by condoning delay. Rule made absolute in above terms.

22.2.07